

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:04cr250

UNITED STATES OF AMERICA

vs.

EDDIE GENE GENTRY (12)

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ORDER

THIS MATTER is before the Court upon motion of the defendant for a reduction of sentence based on the retroactive amendments to the United States Sentencing Guidelines relating to crack cocaine.¹ (Doc. No. 621).

The defendant was sentenced to 120 months' imprisonment pursuant to the mandatory minimum sentence prescribed in 21 U.S.C. § 841(b)(1)(B), based on his plea to conspiracy to possess with intent to distribute 5 grams or more of a mixture and substance containing cocaine base. (Doc. No. 17: Information; Doc. No. 104: Indictment; Doc. No. 203: Plea Agreement; Doc. No. 448: Judgment; Doc. No. 449: Statement of Reasons). Accordingly, the change in the guidelines does not affect the defendant's sentence. Neal v. United States, 516 U.S. 284, 296 (1996) (retroactive amendment to guidelines does not alter statutory mandatory minimum).

IT IS, THEREFORE, ORDERED that the defendant's motion (Doc. No. 619) is **DENIED**.

IT IS FURTHER ORDERED that the government's motion to extend the deadline to respond (Doc. No. 621) is **DENIED** as moot.

¹ The government has requested an extension of the deadline to file a response to the motion. (Doc. No. 621). It plainly appears that the defendant is not entitled to relief; therefore, the government's motion will be denied as moot.

The Clerk is directed to certify copies of this order to the defendant, the Community Defender, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: December 9, 2008

A handwritten signature in black ink, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

